

REMARKS

Claims 13, 14 and 19 are canceled without prejudice, claims 23 to 31 are added, and therefore claims 12, 15 to 18 and 20 to 31 are pending.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants thank the Examiner for accepting and considering the previously filed IDS and references.

The oath/declaration was rejected for formalities. A new oath/declaration with corrected formalities is being obtained and is being filed. Applicants respectfully request that the new oath/declaration be accepted.

The drawings were objected to as to certain formalities, and they have been corrected as suggested. Replacement drawings accompany this response. Approval and entry are respectfully requested, as is withdrawal of the objections.

Claims 12 to 22 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,445,479 ("Takakuwa").

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (*See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art." (*See* M.P.E.P. § 2112; emphasis in original; and *see Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'f. 1990)). Thus, the M.P.E.P. and the case law

make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejections may not be agreed with, to facilitate matters, claim 12 has been rewritten, and also now includes the features of claims 13 and 14, which have been canceled without prejudice.

The “Takakuwa” reference has been broadly cited against claims 12 to 22, particularly, the text at col. 2, line 35 through col. 3, line 45. However, this section of the “Takakuwa” reference, as well as the abstract, title, and additional sections, indicates that the “Takakuwa” reference concerns an “ignition timing control apparatus with knock sensor.” The “Takakuwa” reference does not, however, identically disclose (or even suggest) a signal processing device having “at least one filter having a property influenceable by control information”, in which “*the control information is checked and an alternate measure is taken if the check reveals that the control information is incorrect,*” as provided for in the context of claim 12, as presented.

In particular, the “Takakuwa” reference refers to “a band-pass filter circuit 204 for producing a signal of a pressure fluctuation frequency, for example, 5 to 10 kHz upon knocking, and a masking circuit 205 for removing a blown-out time component of the output signal from the band-pass filter 204.” (“Takakuwa” reference, col. 2, lines 45-50). The “Takakuwa” reference explains that “blown-out” occurs when the “knocking” event occurs.

Since it was not specifically explained why the “Takakuwa” reference supposedly anticipates the rejected claims, the specific elements of the “Takakuwa” reference that the Office might be relying on cannot be properly addressed.. However, Fig. 2, which is cited against claim 12, does contain a filter (e.g., 204). It is therefore assumed, for purposes of this response, that the Office is characterizing the “FROM 1” “Knock Sensor” signal as the “control information” of claim 12. The signal processing circuit (2) of the “Takakuwa” reference does receive the knock sensor signal, compare the signal (202), and perform a filter adjustment (203)/(205) when the signal indicates a knock. (*See* “Takakuwa”, col. 2, line 45 to col. 3, line 50). However, this still does not identically disclose (or even suggest) the feature in which the “*control information is checked and an alternate measure is taken if the check reveals that the control information is incorrect.*” It is the entire function of the Knock Sensor (1) of the “Takakuwa” reference to indicate the presence or absence of an engine knock event. For the knock sensor signal to be “incorrect,” it would have to indicate a knock when there is not one or vice versa. This would completely undo the functionality of the

"Takakuwa" device. Thus, as the "Takakuwa" device functions based on the correct knock sensor signal (e.g., the presumed "control information"), the "Takakuwa" reference does not anticipate claim 12.

For at least this reason, claim 12, as presented, is allowable, as are its dependent claims.

Claim 18, as presented, includes features like those of claim 12, as presented, is therefore allowable for essentially the same reasons, as are its dependent claims. Also, claim 18 has been rewritten to include the features of claim 19, which has been canceled without prejudice.

New claims 23 to 31 do not add any new matter and are supported by the present application. Claim 23 includes features like those of claim 12, as presented, and is therefore allowable for essentially the same reasons. New claims 24 to 31 depend from new claim 23 and are allowable for at least the same reasons.

Accordingly, claims 12, 15 to 18 and 20 to 31 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all pending claims 12, 15 to 18 and 20 to 31 are in condition for allowance. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. Since all issues raised by the Examiner have been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

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